

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF MARCH 19, 2008**

REGULAR MEETING

9:00 A.M.

MARCH 19, 2008

PRESENT:

COMMISSIONERS:	Paul Biane Bob Colven, Chairman Kimberly Cox James V. Curatalo, Alternate Dennis Hansberger, Vice Chairman	Larry McCallon Brad Mitzelfelt, Alternate Mark Nuaimi Richard P. Pearson Diane Williams, Alternate
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STAFF: **Kathleen Rollings-McDonald, Executive Officer**
 Samuel Martinez, LAFCO Analyst
 Michael Tuerpe, LAFCO Analyst
 Anna Raef, Clerk to the Commission
 Angela Schell, Deputy Clerk to the Commission

ABSENT:

COMMISSIONERS: None

CONVENE CLOSED SESSION OF THE LOCAL AGENCY FORMATION COMMISSION – 9:00 A.M. – Conference Room adjacent to the San Bernardino City Council Chambers located at 300 North D Street, First Floor, San Bernardino.

Personnel (Government Code Section 54957)

Employee Evaluation – Executive Officer

RECONVENE TO REGULAR SESSION – CALL TO ORDER – 10:12 A.M.

Chairman Colven calls the regular session of the Local Agency Formation Commission to order and leads the flag salute.

Legal Counsel Clark Alsop announces that the Commission met in closed session to consider the employee evaluation of Kathleen Rollings-McDonald, Executive Officer. He states a 4% merit increase and a cost-of-living increase based on County Exempt Group B, retroactive to January 1, 2008, were proposed. The cost-of-living increase is to be determined in the future.

Commissioner McCallon moves, seconded by Commissioner Nuaimi, approval of a 4% merit increase, and the application of the County Exempt Group B cost-of-living increase when determined by the County, retroactive to January 1, 2008, for Ms. McDonald.

Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Biane, Colven, Cox, Hansberger, McCallon, Nuaimi, Pearson. Noes: None.

Mr. Alsop states no other action was taken in closed session.

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Chairman Colven requests those present who are involved with any of the changes of organization to be considered today by the Commission and have made a contribution of more than \$250 within the past twelve months to any member of the Commission to come forward and state for the record their name, the member to whom the contribution has been made, and the matter of consideration with which they are involved. There are none.

APPROVAL OF MINUTES FOR REGULAR MEETING OF FEBRUARY 20, 2008

Chairman Colven calls for any corrections, additions, or deletions to the minutes. There are none. Commissioner Biane moves approval of the minutes as presented, seconded by Commissioner Cox. Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Biane, Colven, Cox, Hansberger, McCallon, Nuaimi, Pearson. Noes: None. Abstain: None.

CONSENT ITEMS

LAFCO considers the items listed under its consent calendar. The consent calendar consists of:

- ITEM 3. Approval of Executive Officer's Expense Report
- ITEM 4. Ratify Payments as Reconciled for Month of February 2008 and Note Cash Receipts
- ITEM 5. Consideration of: (1) Review of Mitigated Negative Declaration Prepared by City of Hesperia for Tentative Tract 16591 to Create 172 Single-Family Residential Lots on 46.2 Acres, as CEQA Responsible Agency for LAFCO SC#321; and (2) LAFCO SC #321 – Hesperia Water District Agreement for Annexation and Provision of Utility Service No. EOS-2007-06 for Water and Sewer Service (Cambridge Homes)
- ITEM 6. Consideration of: (1) Review of Mitigated Negative Declaration Prepared by County of San Bernardino for Conditional Use Permit to Establish a Gas Station with a 2,000 Sq. Ft. Convenience Store, as CEQA Responsible Agency for LAFCO SC#329; and (2) LAFCO SC#329 – City of Rialto Out-of-Agency Service Contract for Sewer Service (G & M Oil Co. Project)

A Travel Claim and Visa Justifications for the Executive Officer's expense report, as well as staff reports outlining the staff recommendation for the reconciled payments and other consent items, have been prepared and copies of each is on file in the LAFCO office and are made a part of the record by their reference here. SC#321 has been advertised as required by law through publication in *The Sun*, *Daily Press*, and *Hesperia Resorter*, newspapers of general circulation in the area. SC#329 has been advertised as required by law through publication in *The Sun*, a newspaper of general circulation in the area. In addition, individual mailed notice of the service contracts was provided to affected and interested agencies, County departments, those agencies and individuals requesting mailed notice, landowners and registered voters within and surrounding the SC#321 and SC#329 areas pursuant to State law and Commission policy.

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Chairman Colven asks if there is anyone present wishing to discuss any of the consent calendar items. There is no one.

Commissioner Pearson moves approval of the staff recommendations for the consent calendar, seconded by Commissioner Nuaimi. Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Biane, Colven, Cox, Hansberger, McCallon, Nuaimi, Pearson. Noes: None. Abstain: None. Absent: None.

DISCUSSION ITEMS:

**STATUS REPORT – LAFCO 3082 - SPHERE OF INFLUENCE REVIEW (EXPANSIONS)
FOR CITY OF VICTORVILLE AND VICTORVILLE WATER DISTRICT**

LAFCO conducts a hearing to consider the status report for LAFCO 3082 – Sphere of Influence Review (Expansions) for City of Victorville and Victorville Water District. Notice of the hearing was has been advertised as required by law through publication in *The Sun*, a newspaper of general circulation in the area. In addition, individual mailed notice was provided to affected and interested agencies, County departments, and those agencies and individuals requesting mailed notice.

Executive Officer Kathleen Rollings-McDonald states LAFCO 3082 is a sphere of influence amendment which requests expansion for the City of Victorville. She states that at the March 2007 hearing, the Commission deferred consideration of this expansion until the City of Victorville completed its General Plan update as well as expanding the consideration to include the Victorville Water District. Ms. McDonald reports the City of Victorville has released a Notice of Preparation (NOP) for an environmental impact report and LAFCO staff is working closely with the City. She says the map included with the staff report outlines the 37,000-acre sphere of influence expansion proposed by the City of Victorville and the modification to include the expansion of the Victorville Water District, a subsidiary district of the City. She states the staff report outlines that the direction to the Executive Officer was to bring the sphere of influence review back as soon as possible following the adoption of the City's General Plan update. LAFCO staff participated in the March 5 scoping meeting conducted by the City of Victorville. Ms. McDonald states that City staff has no firm timeline on when that update will be completed; however, they do anticipate it will be sometime this summer. Ms. McDonald states LAFCO staff will continue to work with the City on this evaluation and will keep the Commission apprised as it moves forward. She says City and LAFCO staff are available to answer questions today. Ms. McDonald states there is no staff recommendation for action other than to note and file the report.

Chairman Colven calls for questions from the Commission. There are none.

Chairman Colven opens the public hearing and asks if any members of the public wish to speak. There is no one. Chairman Colven closes the public hearing.

**STATUS REPORT – LAFCO 3050 – REORGANIZATION TO INCLUDE CITY OF SAN
BERNARDINO ANNEXATION NO. 360 (ARROWHEAD SPRINGS SPECIFIC PLAN
AREA)**

STATUS REPORT – LAFCO 3067A-3067F – CITY OF SAN BERNARDINO

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ANNEXATION NO. 361 (ISLANDS 1-6)

LAFCO conducts a hearing to consider the status reports for LAFCO 3050 – Reorganization to Include City of San Bernardino Annexation No. 360 (Arrowhead Springs Specific Plan Area) and LAFCO 3067A-3067F – City of San Bernardino Annexation No. 361 (Islands 1-6). Notice of the hearing has been advertised as required by law through publication in *The Sun*, a newspaper of general circulation in the area. In addition, individual mailed notice was provided to affected and interested agencies, County departments, and those agencies and individuals requesting mailed notice.

Ms. McDonald states the status reports for the above items were combined for presentation purposes. She states the location of the Arrowhead Springs annexation includes two separate areas for annexation to the City of San Bernardino. She says the proposal has been expanded to include the entirety of Highway 18 so there is no lapse in service provision for law enforcement and fire protection. She states at the March 2007 hearing the Commission took the application off-calendar to allow the City of San Bernardino to work with the property owner to resolve the questions on water and sewer provision as part of the plan for service. She says the City of San Bernardino's plan for service identified the use of a mutual water company to provide those services. The Commission has expressed concern regarding that arrangement; therefore, the City of San Bernardino is working to provide service delivery through their municipal water department. She states this is a very complex issue and representatives of the City's water department and a representative of the property owner, Campus Crusade for Christ, are present today to answer any questions. She reports that tied to that proposal are the six San Bernardino islands proposed for annexation. It was the policy direction of the Commission that the City of San Bernardino address the islands as a companion proposal to the Arrowhead Springs proposal. She states the discussion by the Commission was that three islands should be expanded and direction was given for staff to obtain updated information from the City of San Bernardino on the plan for service to address the enlarged areas. She states the City, at the March 2007 hearing, requested time to obtain the City Council's opinion on the expansions. She indicates that one peninsula island in the northern region is being taken out to the center line of the roadway (Area 1) at the Commission's direction and the other two islands were not affected by a change. She states in the southern region, Islands 4 and 5 were expanded to encompass the entirety of the surrounding area. She says that, to date, no information has been received from the City of San Bernardino. LAFCO staff has met with City staff and they are evaluating those proposals. LAFCO staff will be required to conduct outreach programs for these islands once the information is received to explain the effects or lack of effects of the change to current uses, property taxes, etc. pursuant to Commission policies. She points out that LAFCO must receive the plan for service from the City and states that the islands are tied to the consideration of the Arrowhead Springs area, so LAFCO staff will work with the City on both items. She explains that if the City does not provide the information to address the islands, LAFCO will withhold consideration of the Arrowhead Springs area. Ms. McDonald reiterates that staff continues to work with the City and representatives of the property owners to answer questions and provide the information needed to move forward with these proposals. She states the only requirement of the Commission is to note and file the report. Staff will provide an update in about six months.

Commissioner Nuaimi asks if the six islands are a subset of all the islands identified. Ms. McDonald states they are. He points out an area on the map that appears to be an island and Ms. McDonald explains that a phased-in approach for the eastern San Bernardino area was

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planned and the next phase is to take into consideration the other islands in the City. She points out that to the south of Areas 2 and 3 there are peninsula areas that qualify as less than 150 acres and the City had addressed the issue that they were 75 percent surrounded and would consider them in the future. She states the phased-in approach is being taken to assure that the City is financially able to recoup the costs and it will address most of the islands in the City. She states that if SB301 is passed, there is no sunset to the \$50 motor-vehicle payments to cities for inhabited annexations, so the phasing approach will work for the islands through the 2014 window.

Commissioner Biane asks Ms. McDonald to expand on the phase-in program and asks when direction was given by the Commission to accept the six islands as adequate for Phase 1. He asks if there is any enforceability to performance of that phased plan. Ms. McDonald states the resolution adopted by the City Council addresses the phased program and explains that it is hinged on the Arrowhead Springs annexation and the development application that is a long-term project that property tax revenues will transfer to the city and service obligations will be phased in over time. She explains that the City Council has adopted a resolution identifying the approach to addressing the balance of the islands which was agreed to in concept by the Commission in reviewing Arrowhead Springs. She says LAFCO staff will include that information in the status report to be provided in six months. She states the City is working with the landowners of Arrowhead Springs to resolve the issues on service delivery for water and sewer and she believes they will move forward in the near future.

Chairman Colven opens the public hearing and asks if any members of the public wish to speak. There is no one. Chairman Colven closes the public hearing.

PENDING LEGISLATION REPORT

Ms. McDonald states that there was a flurry of activity in the last month for the introduction of new bills due to legislation introduction deadlines. A number of those new bills affect LAFCOs to varying degrees. She says that most important is AB1998 (Silva), which proposes to transfer responsibility for the management of financial information filings for proposals for individuals or committees which wish to influence the activities of the Commission, either before the application is submitted or during the protest hearing process. She reminded the Commission that LAFCO became responsible for this task this year, at which time most LAFCO Executive Officers asked for relief from the author of the previous bill. Ms. McDonald states this bill will, in fact, transfer responsibility to the FPPC, as it is familiar with all of the requirements and penalties; however, it does require a two-thirds vote of the legislature to change the FPPC statute. Ms. McDonald states LAFCO staff recommends the Commission support the bill. Commissioner Hansberger asks what reports are currently filed with the FPPC and states most of the reports with which he is familiar are filed with the clerk of the local agency or with the Secretary of State. Ms. McDonald states the FPPC designates who the reporting agent is and in many cases it is the Registrar of Voters. She says that for the protest hearing process, they would file with the Registrar of Voters. For those who are petitioning and have, in fact, developed a committee, it would go to the FPPC directly. Commissioner Hansberger states he is not familiar with any filings that go directly to the FPPC and states that they may become responsible for designating who would manage the documents. He explains that they are a review body to review what others have done. Legal Counsel Clark Alsop states that this ties in with an update that CALAFCO has received that the FPPC is resisting taking on this new authority. He says CALAFCO has sent out a survey asking LAFCOs what, in fact, is involved,

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to show the FPPC that it is a very minimal responsibility. Commissioner Hansberger states the FPPC has very limited funding and the legislature has consistently cut back their funding to the point that their entire budget is dependent on fines. Ms. McDonald emphasizes that the familiarity with these issues rests more with the FPPC than with LAFCO staff. Commissioner McCallon comments that he is not familiar with any filings that go to the Registrar of Voters, but that most filings go to the City Clerk or the County Clerk. Ms. McDonald explains that, for example, in the Phelan Piñon CSD election, anyone who spent more than \$1,000 was required to report that to the Registrar of Voters. She states there are different reporting entities based upon the type of report needed. She says that for LAFCO proposals that go to the ballot, the reporting requirement is always with the Registrar of Voters.

Ms. McDonald reports on AB2484 (Caballero) and states it proposes to change the language related to the exercise of a new function or service, or in this case, the divestiture of a power by a special district. She states there was an instance in San Diego where the question of divestiture of power became an issue because there was no direct reference in LAFCO law to such a thing. She states this legislation proposes to change that to make it clear that it is a change of organization and a process under Cortese-Knox-Hertzberg. She states staff will monitor and keep the Commission apprised. This legislation was sponsored by CALAFCO.

She states SB1458, by the Committee on Local Government, is the County Service Area Law Rewrite which is the culmination of a six-month review period by a group of stakeholders that were called together by the Senate Local Government Committee. She says she and several other Executive Officers served as technical advisors to that committee and to the Senate Local Government staff on this rewrite. She says that, as a rewrite, the more controversial issues related to County Service Area law were not resolved in this process, because general consensus was what was required to move forward. She says there are some areas of cleanup required in the future. LAFCO staff supports the rewrite of this law that will now make county service area law reflective of Proposition 13, Proposition 218 and a number of issues regarding elections and funding requirements. Ms. McDonald asks the Commission for its support and states a letter has been drafted for the Chairman's signature if the Commission approves support of this bill. LAFCO staff recommends approval of support of this bill and direct the Chairman to sign the letter of support.

Commissioner Cox moves approval of the staff recommendation, seconded by Commissioner Pearson. Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Biane, Colven, Cox, Hansberger, McCallon, Nuaimi, Pearson. Noes: None. Abstain: None. Absent: None.

Ms. McDonald reports on AB2367 (Fuentes) and states this bill proposes to change the two-year prohibition on rezoning from two years to five years and to remove the language which allows for an exemption from that circumstance to allow for the zoning to be changed during that period. She says LAFCO staff and CALAFCO are not aware of the reason Assemblyman Fuentes is moving this forward. Ms. McDonald notes that during the rewrite of LAFCO law, the position taken at that time was to require that rezoning be a mandate for five years and there was no exemption language. She reports CALAFCO has not taken a position on this bill; therefore, LAFCO staff recommends a "watch" position.

Ms. McDonald reports on AB2278 (Aghazarian) and states this bill introduces fire protection districts into the property tax negotiation process. The language specifically says "fire protection

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districts formed pursuant to the health and safety code. . . . “ She explains it does not introduce a community service district, a municipal water district, or any other independent agency that, in their range of services, provides fire protection. She says current law specifies that the County Board of Supervisors will negotiate on behalf of all special districts, independent or dependent. She explains the property tax process relates only to the ad valorem tax – a static amount that is divided into shares. She states the transfer process looks at the detaching agencies and the new agencies to be introduced and reapportions those existing shares. She explains that the fire protection district being added to this process to negotiate on its own cannot unilaterally take property tax revenues from another entity; there would have to be agreement. In addition, the property tax process has a 60-day window, so that the introduction of a fire protection district into this process would mean that it would have to adopt a property tax resolution within the 60-day window or the proposal would be terminated. CALAFCO has taken no position and LAFCO staff recommends the Commission request further information on the purpose of this bill, since in San Bernardino County, the County and Cities, if appropriate, negotiate every proposal. She states many counties have master property tax agreements which may simplify this process; however, in San Bernardino County this would introduce another entity into the resolution adoption process within that 60-day window. Ms. McDonald requests that she be directed to return at the next hearing with a recommended position. Commissioner Colven states he attended the Fire Districts Association of California meeting last week and there is support for this bill by that organization. He states they intend to amend the bill when the opportunity presents itself. She states staff is somewhat concerned about the introduction of another mandated agency for adoption of resolutions when, by policy declaration in this county, the division of those property taxes is based upon a detaching entity share being reapportioned to others and the transfer of service responsibility. She says current law allows for a process where all parties who are receiving a share of the property tax have a mechanism to negotiate and all parties adopt a resolution transferring those responsibilities.

Ms. McDonald concludes her legislative report and recommends that the Commission note and file the report. She asks for action on AB1998 to indicate support to transfer responsibility for the reporting requirements for the FPPC and to give direction to report back to the Commission on the other bills.

Chairman Colven calls for questions from the Commission. There are none.

Chairman Colven opens the public hearing and asks if any members of the public wish to speak. There is no one. Chairman Colven closes the public hearing.

Commissioner Nuaimi moves approval of the staff recommendation, seconded by Commissioner Cox. Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Biane, Colven, Cox, Hansberger, McCallon, Nuaimi, Pearson. Noes: None. Abstain: None. Absent: None.

EXECUTIVE OFFICER'S ORAL REPORT

Ms. McDonald states that the Commission received a letter from the Mojave Desert Resource Conservation District expressing its thanks to the Commission for its municipal service review and update.

Ms. McDonald provides the following update for future hearings:

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- April 2008: The interview and selection of the Alternate Public Member position from the three candidates who have expressed interest; preliminary review of the budget and fee schedule for 2008-2009; and one proposal for annexation to the City of Barstow are scheduled.
- May 2008: Swearing in of new members: Ms. McDonald states that Commissioner Nuaimi was reappointed to his City member position and Ms. Cox is currently running for the Special Districts member position. She says a quorum was not reached at the meeting scheduled for the purpose of selecting the Special Districts member, so staff is in the process of conducting the mail-in election. Ms. Cox has been nominated and another district is expected to submit a nominee. Ms. McDonald states that the Special Districts will be asked in the future to conduct the business of the Special Districts Selection Committee by mail, as a quorum has not been reached for the last eight years. Also for consideration in May will be the final budget and fee schedule. Tentatively scheduled are an annexation to the City of Redlands, the service review and sphere update for the Mojave Water Agency and service review and sphere updates for the community of Apple Valley, including the Town, CSAs 60 and 17, the Apple Valley Fire Protection District, the Apple Valley Heights Water District, Apple Valley Foothill Water District, Juniper Riviera Water District, Mariana Ranchos Water District and the Thunderbird Water District, and the service review and sphere update for the community of Barstow, including the City, the Barstow Heights Community Services District, CSA 40 SL-1, Odessa Water District, Barstow Fire Protection District, and Barstow Cemetery District are also tentatively scheduled for May.

Commissioner Colven asked the names of the applicants for the Alternate Public Member. Ms. McDonald states the applicants are C. Glenn Wilson from Redlands, Sam Racadio from Highland, and Jim Bagley from Twentynine Palms.

- June 2008: Ms. McDonald states that it is anticipated that the final north desert service reviews will be conducted including, the service reviews sphere of influence updates for the communities of Yermo, Daggett and Newberry Springs and their CSDs, and the service reviews for the Searles Valley/Trona area, which includes several county service areas and three Kern County districts which serve in San Bernardino County, the East Kern Healthcare District, the Rand Communities Water District and the Indian Wells Valley Water District will tentatively be considered in June. She states that until these service reviews were conducted, LAFCO staff was unaware that Kern County districts had territory in San Bernardino County. The City of Adelanto service review and update and the community of Hesperia service review and sphere update, including the City, the subsidiary water district, fire district and independent recreation and park district are tentatively scheduled for consideration in June.

Commissioner Mitzelfelt asks if the reviews that include cities would also include their spheres. Ms. McDonald states they would.

Ms. McDonald points out that this schedule is tentative, depending upon the receipt of basic information from a number of areas and agencies and mapping requirements.

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COMMISSIONER COMMENTS

Chairman Colven calls for comments from the Commission.

Commissioner Cox states the Commission should be very proud of its support for the Phelan Piñon Hills community, as the swearing-in ceremony will be held tonight when a new local government is born to serve that community.

COMMENTS FROM THE PUBLIC

Chairman Colven calls for comments from the public. There are none.

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION, THE
HEARING IS ADJOURNED AT 10:42 A.M.**

ATTEST:

ANNA M. RAEF
Clerk to the Commission

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ROBERT W. COLVEN, Chairman